

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LESTER C. WRIGHT and U.S. POSTAL SERVICE,
MAIN POST OFFICE, Lawton, OK

*Docket No. 98-309; Submitted on the Record;
Issued December 14, 2000*

DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has established that he sustained an injury to his right shoulder in the performance of duty.

On August 18, 1997 appellant, then a 40-year-old clerk, filed a notice of traumatic injury and claim for continuation of pay/compensation (Form CA-1) alleging that he injured his shoulder on August 16, 1997 while lifting a tray of letter mail to a higher level. On the reverse of the CA-1 form, the employing establishment noted that appellant had not worked on August 16, 1997, the date he alleged the injury took place.

In a duty status report dated August 18, 1997, Dr. Timothy F. Wright diagnosed a sprain/strain of the right shoulder due to appellant's lifting a tray of letters to a higher level on August 16, 1997.

By letter dated August 29, 1997, the Office of Workers' Compensation Programs informed appellant that the information of record was insufficient to establish his claim and advised him as to the type of evidence required to support his claim.

By letter dated August 19, 1997, the employing establishment noted that appellant was not scheduled to work on August 16, 1997 and attached the work schedule for the period August 16 to August 22, 1997.

By decision dated September 19, 1997, the Office denied appellant's claim on the basis that he failed to establish fact of injury. The Office determined that the evidence of record was insufficient to establish that the alleged incident occurred on August 16, 1997 as appellant was not scheduled to work that day.

The Board finds that appellant has not established that he sustained an injury on August 16, 1997 in the performance of duty.

An employee seeking benefits under the Federal Employees' Compensation Act¹ has the burden of establishing the essential elements of his or her claim including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

In order to determine whether an employee has sustained a traumatic injury in the performance of duty, the Office begins with an analysis of whether a "fact of injury" has been established. There are two components involved in establishing fact of injury which must be considered. First, the employee must submit sufficient evidence to establish that he actually experienced the employment incident at the time, place and in the manner alleged.⁴ Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.⁵ The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence.⁶

There is insufficient evidence in the file regarding whether or not the claimed event, incident or exposure occurred at the time, place and in the manner alleged. Although appellant indicated on the claim form that he injured himself on August 16, 1997, the employing establishment controverted the claim noting that appellant was not scheduled to work on August 16, 1997. The employing establishment submitted a copy of the work schedule for the week of August 16 through August 22, 1997 in support of its contention that appellant was not scheduled to work on August 16, 1997. Appellant was provided with the opportunity to cure the deficiencies in the claim by the Office, but he failed to submit any evidence establishing that the claimed incident occurred at the time, place and in the manner alleged. The Board finds that he has failed to meet his burden of proof in establishing that the August 16, 1997 lifting incident occurred as alleged. Therefore, appellant has failed to meet his burden of proof in establishing that he sustained an injury in the performance of duty.

¹ 5 U.S.C. §§ 8101-8193.

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

³ *Delores C. Ellyett*, 41 ECAB 992 (1990); *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Elaine Pendleton*, *supra* note 2.

⁵ *Id.*

⁶ *Id.*

The decision of the Office of Workers' Compensation Programs dated September 19, 1997 is hereby affirmed.

Dated, Washington, DC
December 14, 2000

Willie T.C. Thomas
Member

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member